

In the words of Justice Ruth Bader Ginsburg only 2 years ago, “Nine seems to be a good number. It’s been that way for a long time. . . . I think it was a bad idea when President Franklin Roosevelt tried to pack the court.”

And that, again, was the late Justice Ruth Bader Ginsburg. She said it was a bad idea.

And fortunately for the country, when President Roosevelt proposed his Court-packing plan, both Republicans and Democrats opposed it.

Unfortunately, Democrats today seem to be more concerned with power than principle or, in some cases, maybe lack the courage to stand up to the ferocity of the far left.

In the past, President Biden has powerfully defended American institutions, but now he seems incapable of standing up to the far left, and so now we have an American President implicitly endorsing the idea of Court packing by establishing a Commission to study the proposal.

Democrats like to talk about democracy and making sure that people have a voice, but it is becoming increasingly clear that they think their voices and the voices of liberal Americans are the only voices that should be heard.

Now, if they can’t win by convincing the public to elect strong Democratic majorities, they have made it increasingly clear that they are willing to undermine our institutions to ensure their grip on power.

Don’t like the makeup of the Supreme Court? Expand the Court with new Democratic Justices until you can be sure you get the results you want.

Don’t like Senate rules like the legislative filibuster that give the minority party a voice in legislation? Change the rules.

Don’t like your election prospects? Pass legislation like H.R. 1 or S. 1, designed to give your party a permanent advantage in electoral contests.

I understand Democrats’ passion for their political beliefs. I am pretty passionate about advancing my political principles, but I believe we should be advancing our principles the democratic way, by persuading people to vote for us, not by undermining our democratic institutions to give our party an advantage.

I am deeply disappointed that President Biden found himself unable to stand up to pressure from the radical left, but I hope—I hope that at least some Democrats will find the courage to oppose these dangerous attempts to undermine our system of government.

The Biden Court-packing Commission is a solution in search of a problem and an attempt at a raw power grab by Democrats. It should quickly fade into the obscurity that it deserves.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Pennsylvania.

NOMINATION OF GARY GENSLER

Mr. TOOMEY. Mr. President, I rise this afternoon to discuss the nomina-

tion of Mr. Gary Gensler to serve as the Chairman of the Securities and Exchange Commission.

To start this, I just want to remind my colleagues, the mission of the SEC is really threefold: It is to protect investors; it is to facilitate capital formation; and it is to maintain fair, orderly, and efficient financial markets, capital markets.

And the fact is, America’s capital markets are, without a doubt, the envy of the world. There are no other capital markets anywhere on the planet that have the depth, the liquidity, the diversity, the flexibility that allow growing businesses to grow as readily as our capital markets allow.

And that is a big part of why we are outperforming the world in terms of a recovery from the pandemic—coronavirus infections and lockdowns and all the rest. It is one of many reasons, but it is an important one.

It is also worth remembering that that recovery can be stymied if regulators impose inappropriate, burdensome regulations, including, say, backdoor regulation by enforcements that we have seen in the past that hamper job growth, that limit access to capital or if these regulators mandate managers of publically traded companies to favor so-called stakeholders over the interests of the people who actually own the company, which is to say the shareholders.

The SEC has historically administered Federal security laws and pursued its mission on a pretty bipartisan basis, but increasingly, there are some who want the SEC to stray from this tradition and instead to push the bounds of its legal and regulatory authorities in order to advance a particular liberal, social, and cultural agenda.

Unfortunately, when he was the Chairman of the CFTC, Mr. Gensler demonstrated a willingness to push the legal authorities and the legal limits of that Agency’s authority. He was responsible for a CFTC rule on position limits that was overturned in court and another rule on cross-border swaps that was viewed by many, including international regulators, as exceeding the CFTC’s authority. This raises questions about whether he would be willing to exceed the legal bounds on the SEC’s authority as well.

Let me acknowledge that Mr. Gensler, without a doubt, has a great deal of knowledge and experience in our securities markets. There is no question about it. He has a lot of expertise there. But based on his record as a regulator in the past and statements that he has made during the course of this nomination process, I am concerned that he will use the SEC and its regulatory powers to advance an agenda that should not be the purview of the SEC—specifically, global warming and climate change, political spending disclosures, and issues of racial inequality and diversity.

Securities laws and securities regulations are not the appropriate vehicle to

address any of these topics. That is the reason why we have environmental and political spending and civil rights laws, and we have Federal Agencies that are responsible for enforcing those laws. If anybody thinks those laws are not adequate, OK, then take it up before Congress and have Congress change the laws. We are the people who should be responsible because we are the ones who are accountable to the American people. It is certainly not the role of the Securities and Exchange Commission—an independent financial regulator with no political accountability to voters whatsoever—to address difficult, challenging, sometimes contentious political, social, and cultural issues.

I have to say, nothing that Mr. Gensler said at his hearing or since has alleviated my concerns. Mr. Gensler did state that his regulatory approach would be grounded in the Supreme Court’s definition of “materiality,” but he declined to explain what that really means, what that means to him, what are the limiting principles.

For example, I asked him if it would be OK for companies to be forced or pressured to comply with quotas with respect to the race, the gender, or sexual orientation of their board members. In response, Mr. Gensler did not disavow the idea of forcing or pressuring companies to use these kinds of quotas to achieve board diversity.

I also asked him if a company’s financially insignificant spending on, say, energy or maybe political advocacy—if that can ever be material information that must be disclosed to investors. Again, I was talking about financially insignificant transactions. In response, Mr. Gensler essentially indicated that if a number of politically motivated activist investors wanted to know the information—for example, information related to global warming or political spending—then that makes it material information even if it is financially insignificant to the company, and therefore the SEC could presumably mandate its disclosure. I think that is completely inconsistent with the whole idea of materiality.

What it seems to me the bottom line for Mr. Gensler is, as long there are liberal activist investors who demand to know certain things about environmental, social, or corporate governance issues, then it would be OK to force disclosure of those issues, and I was not able to discern a situation in which Mr. Gensler would not be willing to mandate disclosure of that kind of information.

There is another issue that is concerning to me, and that is Mr. Gensler’s answers to questions during his nomination hearing about recent stock market volatility.

We have seen some extraordinary volatility in a handful of companies for a variety of relatively novel reasons. Some have suggested that we have to take a paternalistic approach to grown adults and maybe limit their ability to

make investments because they don't know well enough what is good for them. And maybe there are apps that make it too user friendly to buy stocks, so maybe that leads to imprudent decisions.

I find it shocking that we would actually contemplate limiting grown adults' ability to make their own decisions. I wasn't sure where Mr. Gensler came out on this, and in some respects, I think, he indicated that there may be some sympathy to this paternalistic view that I think would be a very, very big mistake.

So the nomination process just never alleviated the concerns I have. Maybe my concerns will prove to have been misplaced. I certainly hope so. Mr. Gensler is a very intelligent, knowledgeable, thoughtful person. He is very likeable. I happen to like him personally. But because of these concerns I have, I will not be able to support his nomination, and I will be voting no later today.

Mr. TOOMEY. I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. Mr. President, I appreciate Senator TOOMEY's comments and the spirit in which they were delivered.

I rise to urge my colleagues to support President Biden's nominee to be Chairman of the Securities and Exchange Commission, Gary Gensler.

In March, Mr. Gensler appeared before the Banking, Housing, and Urban Affairs Committee for his nomination hearing. The committee advanced him to the full Senate with a bipartisan vote.

Mr. Gensler is an experienced public servant with a strong record of holding Wall Street accountable. He will lead the SEC at a time when it has become more and more obvious to more and more people that the stock market is detached from the reality of working families' lives. Mr. Gensler will bring the SEC's focus back to the people who make this country work. He will push to ensure that markets are a way for families to save and invest for their children's education, for a downpayment on a home, for a secure retirement, not a game for hedge fund managers, where workers lose every single time.

Mr. Gensler, as Chair of the Commodity Futures Trading Commission, led the implementation of the Dodd-Frank Wall Street Reform and Consumer Protection Act to bring transparency and stability to more markets. He was tough on enforcement issues. He cracked down on big banks that had manipulated interest rates for years.

Mr. Gensler is an expert on finance and markets. He previously served as Secretary of the Treasury for Domestic Finance and Assistant Secretary of the Treasury for Financial Markets.

He will carry out the SEC's mission—the reason it was created—to ensure that U.S. capital markets deliver growth and investment opportunities that grow the real economy and give

middle-class families the opportunity to build wealth. He understands we need to ensure confidence and stability in our markets as the foundation to grow American businesses and support the workers who make their companies successful. Mr. Gensler will listen to families saving for the future as well as professionals who manage workers' pensions and retirements. He will make sure that savers, large and small, can hold corporate executives accountable.

When it comes to enforcement, Mr. Gensler has shown the guts to take on bad actors, no matter how big and no matter how powerful they are, and he will hold them accountable.

The pandemic has reminded people just how rigged the Wall Street system can be.

About 2 months ago, I became chair of the committee that is called the Senate Committee on Banking, Housing, and Urban Affairs. To most in this body, the committee is just referred to as the Banking Committee or Senate Banking. This is a committee where Wall Street—it has been all about Wall Street, little about housing, and damn near nothing about urban affairs. Those days are behind us. This committee will look out for small investors. That is why the SEC is so important, and Mr. Gensler's work. It will help to expand housing, it will make a difference in communities, and it will no longer be the province of Wall Street.

If you look only at the stock market, it looks like the pandemic never happened. The market reached new highs last fall. Families and businesses continued to suffer. Workers put their health and their lives on the line to keep businesses running, and once again, hedge funds and insiders reaped the vast majority of the profits.

We know that over the last decade or so—more than a decade—we have seen profits go up, we have seen executive compensation explode upward, and we have seen workers more and more productive. Yet wages have been flat.

That is our challenge. We saw during the pandemic that was even worse. It doesn't have to be that way. We can have a market that works for everyone. Mr. Gensler shares that goal. Under his leadership, the SEC can protect people's hard-earned savings, can keep our markets stable, and can make them fair. This will let us create an economy where everyone can participate.

Mr. President, I urge my colleagues to vote yes on Mr. Gensler's nomination.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. WICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO COMMANDER ANDREW L. PATE

Mr. WICKER. Mr. President, I rise this afternoon to say thank you and

farewell to a member of the Commerce Committee staff who is leaving the Senate soon. Commander Andrew L. Pate—Andy, as we know him—is completing his 2-year assignment as senior policy adviser and Coast Guard congressional fellow on the Senate Committee on Commerce, Science, and Transportation.

For those who are not aware, the Coast Guard's congressional fellows program is a highly competitive program that assigns Coast Guard officers to congressional offices and committees as detailees. This elite program brings the Coast Guard's "cream of the crop" to Washington. These officers uphold the Coast Guard's core values of honor, respect, and devotion to duty. These special assignments serve to educate Coast Guard officers on the inner workings of Congress. The Coast Guard benefits from this program by bringing its unique perspective to the process of drafting and passing legislation, as well as gaining leaders within its own ranks who deeply understand the legislative process. And, of course, the Congress gains immensely from the obvious leadership and intelligence and work ethic of these great men and women.

Andy Pate was an obvious choice for this fellowship—not once but twice. In July of 2008, not long after I arrived in the Senate, then-Lieutenant Pate joined my office to serve as my first Coast Guard fellow, where he set a high bar for those who would come after him.

Following his departure, Andy completed tours as a commanding officer of Coast Guard cutters around the world. His operational assignments have focused on search and rescue, counter-narcotics, migrant interdiction, homeland security, defense operations, and living marine resource protection programs spanning the North Atlantic, the Equator, Puerto Rico, the U.S. Virgin Islands, and the Arabian Gulf.

Andy also served as strategic analyst in the Commandant's Advisory Group at Coast Guard headquarters and as a transition team member for the 25th Commandant of the Coast Guard. He went on to become the Coast Guard's international security fellow at the Center for Strategic and International Studies.

Since rejoining my team in 2019, Andy has had a significant impact on the Commerce Committee. His expertise as a cutterman and senior officer has meaningfully informed the committee's efforts, culminating in the enactment of the Elijah E. Cummings Coast Guard Authorization Act—the service's 2-year comprehensive reauthorization.

Additionally, Commander Pate championed a key Coast Guard provision in the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act. In response to the COVID-19 pandemic, Congress extended lease protections for service-members in residential or vehicle